THE BOMBAY PUBLIC TRUSTS ACT, 1950.

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SCHEDULE.

BOMBAY ACT No. XXIX OF 1950.[1]

[THE BOMBAY PUBLIC TRUSTS ACT, 1950.]

[*14th August 1950*]

An Act to regulate and to make better provision for the administration of public religious and charitable trusts in the State of Bombay.

WHEREAS it is expedient to regulate and to make better provision for the administration of public religious and charitable trusts in the State of Bombay ; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Short title, extent, operation and application.

1. (*1*) This Act may be called the Bombay Public Trusts Act, 1950.

(*2*) It shall extend to the whole of the State of Bombay.

(*3*) This Act shall come into force at once ; but the provisions thereof shall apply to a public trust or any class of public trusts on the date specified in the notification under sub-section (*4*).

(*4*) The State Government may, by notification in the *Official Gazette*, specify the date on which the provisions of this Act shall apply to any public trust or any class of public trusts :

Provided that the State Government may also by a like notification direct that from the date specified therein any public trust or class of public trusts shall be exempt from the provisions of this Act :

Provided further that before a notification of such application or exemption is published, a draft thereof shall be published in the *Official Gazette* and in such other manner as may be prescribed for the information of persons likely to be affected thereby together with a notice specifying the date on or before which any objections or suggestions shall be received and the date on or after which the draft shall be taken into consideration.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*1*) " assessor " means a person appointed as an assessor under section 7 ;

(*2*) " Assistant Charity Commissioner " means an Assistant Charity Commissioner appointed under section 5 ;

(*3*) " Charity Commissioner " means the Charity Commissioner appointed under section 3 ;

(*4*) " court " means in the Greater Bombay, the City Civil Court and elsewhere, the District Court ;

(*5*) " Deputy Charity Commissioner " means the Deputy Charity Commissioner appointed under section 5 ;

(*6*) " Hindu " includes Jain, Buddhist and Sikh ;

[1] For Statement of Objects and Reasons *see Bombay Government Gazette*, 1949, Part V, pp. 235–239.

(7) "Inspector" means an Inspector appointed under section 6;

(8) "manager" means any person (other than a trustee) who for the time being either alone or in association with some other person or persons administers the trust property of any public trust and includes—

(a) in the case of a math, the head of such math,

(b) in the case of a wakf, a mutawalli of such wakf,

(c) in the case of a society registered under the Societies Registration Act, 1860, its governing body, if the property of the society is not vested in a trustee; XXI of 1860.

(9) "math" means an institution for the promotion of the Hindu religion presided over by a person whose duty it is to engage himself in imparting religious instructions or rendering spiritual service to a body of disciples or who exercises or claims to exercise headship over such a body and includes places of religious worship or instruction which are appurtenant to the institution;

(10) "person having interest" means—

(a) in the case of a temple, a person who is entitled to attend at or is in the habit of attending the performance of worship or service in the temple, or who is entitled to partake or is in the habit of partaking in the distribution of gifts thereof,

(b) in the case of a math, a disciple of the math or a person of the religious pursuasion to which the math belongs,

(c) in the case of a wakf, a person who is entitled to receive any pecuniary or other benefit from the wakf and includes a person who has a right to worship or to perform any religious rite in a mosque, idgah, imambara, dargah, maqbara or other religious institution connected with the wakf or to participate in any religious or charitable institution under the wakf,

(d) in the case of a society registered under the Societies Registration Act, 1860, any member of such society, and XXI of 1860.

(e) in the case of any other public trust, any beneficiary;

(11) "prescribed" means prescribed by rules;

(12) "public securities" means—

(a) securities of the Central Government or any State Government,

(b) stocks, debentures or shares in Railway or other companies, the interest or dividend on which has been guaranteed by the Central or any State Government,

(c) debentures or other securities for money issued by or on behalf of any local authority in exercise of the powers conferred by an Act of the Central or State Legislature,

(d) a security expressly authorised by an order which the State Government makes in this behalf;

(13) "public trust" means an express or constructive trust for either a public religious or charitable purpose or both and includes a temple, a math, a wakf or any other religious or charitable endowment and a society formed either for a religious or charitable purpose or for both and registered under the Societies Registration Act, 1860; XXI of 1860.

(*14*) "region" or "sub-region" means the areas designated as such and for which a Public Trusts Registration Office has been established under this Act;

(*15*) "rules" means rules made under this Act;

(*16*) "scrip" includes security, stock, shares and debentures;

(*17*) "temple" means a place by whatever designation known and used as a place of public religious worship and dedicated to or for the benefit of or used as of right by the Hindu community or any section thereof as a place of public religious worship;

(*18*) "trustee" means a person in whom either alone or in association with other persons, the trust property is vested and includes a manager;

(*19*) "wakf" means a permanent dedication by a person professing Islam of any moveable or immovable property for any purpose recognised by the Islamic law as pious, religious or charitable and includes a wakf by user but does not include a wakf such as is described in section 3 of the Mussalman Wakf Validating Act, 1913, under which any benefit is for the time being claimable for himself by the person by whom the wakf was created or by any member of his family or descendants;

VI of 1913.

(*20*) words and expressions used but not defined in this Act and defined in the Indian Trusts Act, 1882, shall have the meanings assigned to them in that Act.

II of 1882.

CHAPTER II.

ESTABLISHMENT.

Charity Commissioner.

3. The State Government may, by notification in the *Official Gazette*, appoint an Officer to be called the Charity Commissioner, who shall exercise such powers and shall perform such duties and functions as are conferred by or under the provisions of this Act and shall, subject to such general or special orders as the State Government may pass, superintend the administration and carry out the provisions of this Act throughout the State.

Qualifications for appointment of Charity Commissioner.

4. The Charity Commissioner shall be a person who is holding or has held a judicial office not lower in rank than that of a District Judge or a Judge of the Bombay City Civil Court.

Deputy and Assistant Charity Commissioners.

5. (*1*) The State Government may also appoint such number of Deputy and Assistant Charity Commissioners for such regions or sub-regions or for such public trust or such class of public trusts as may be deemed necessary.

(*2*) Persons to be appointed as Deputy or Assistant Charity Commissioners shall be persons who are holding or have held a judicial office not lower in rank than that of a Civil Judge (Senior Division).

(*3*) The Deputy and Assistant Charity Commissioners shall exercise such powers and perform such duties and functions as may be provided by or under the provisions of this Act.

Subordinate Officers.

6. To aid the Charity Commissioner and the Deputy and Assistant Charity Commissioners in carrying out the provisions of this Act, the State Government may appoint Inspectors and other subordinate Officers with such designations and assign to them such powers, duties and functions under this Act, as may be deemed necessary.

Assessors.

7. (*1*) The assessors shall be appointed in the manner provided in Chapter IX for any region or sub-region or with respect to any particular public trust or class of public trusts or in connection with any particular matter or class of matters relating to such trust or class of trusts.

(*2*) The assessors shall perform such functions as may be provided by or under the provisions of this Act.

Delegations.

8. (*1*) The State Government may delegate any of its own powers or functions under this Act to the Charity Commissioner or any other officer subject to such conditions as it thinks fit.

(*2*) The State Government may also direct that any powers exercisable and any duties or functions to be performed by any particular officer appointed under this Act may be performed by any other officer subject to such conditions as it thinks fit.

CHAPTER III.

Charitable Purposes and Validity of certain Public Trusts.

Charitable purposes.

9. For the purposes of this Act, a charitable purpose includes—

(1) relief of poverty or distress,
(2) education,
(3) medical relief, and
(4) the advancement of any other object of general public utility,

but does not include a purpose which relates—

(*a*) exclusively to sports, or

(*b*) exclusively to religious teaching or worship.

Public trust not to be void on ground of uncertainty.

10. Notwithstanding any law, custom or usage, a public trust shall not be void, only on the ground that the persons or objects for the benefit of whom or which it is created are unascertained or unascertainable.

Explanation.—A public trust created for such objects as dharma, dharmada or punyakarya, punyadan shall not be deemed to be void, only on the ground that the objects for which it is created are unascertained or unascertainable.

Public trust not void on ground that it is void for non-charitable or non-religious purpose.

11. A public trust created for purposes some of which are charitable or religious and some are not shall not be deemed to be void in respect to the charitable or religious purpose, only on the ground that it is void with respect to the non-charitable or non-religious purpose.

Public trust not void on ground of absence of obligation.

12. Any disposition of property for a religious or charitable purpose shall not be deemed to be void as a public trust, only on the ground that no obligation is annexed with such disposition requiring the person in whose favour it is made to hold it for the benefit of a religious or charitable object.

Public trust not void on failure of specific object or society etc. ceasing to exist.

13. If any public trust is created for a specific object of a charitable or religious nature or for the benefit of a society or institution constituted for a charitable or religious purpose, such trust shall not be deemed to be void only on the ground—

(*a*) that the performance of the specific object for which the trust was created has become impossible or impracticable, or

(*b*) that the society or institution does not exist or has ceased to exist, notwithstanding the fact that there was no intent for the appropriation of the trust property for a general charitable or religious purpose.

CHAPTER IV.

Registration of Public Trusts.

Regions and sub-regions.

14. (*1*) For the purposes of this Act, the State Government may form regions and sub-regions and may prescribe and alter limits of such regions and sub-regions.

(*2*) The regions and sub-regions formed under this section, together with the limits thereof and every alteration of such limits shall be notified in the *Official Gazette*.

Public Trusts Registration Offices.

15. In every region or sub-region there shall be a Public Trusts Registration Office:

Provided that for two or more regions or sub-regions, there may be one Public Trusts Registration Office:

Provided further that for one region or sub-region there may be one or more Joint Public Trusts Registration Offices.

Deputy or Assistant Charity Commissioner to be in charge of Public Trusts Registration Office.

16. The State Government may appoint a Deputy Charity Commissioner or Assistant Charity Commissioner to be in charge of one or more Public Trusts Registration Offices or Joint Public Trusts Registration Offices.

Books, indices and registers.

17. In every Public Trusts Registration Office or Joint Public Trusts Registration Office, it shall be the duty of the Deputy or Assistant Charity Commissioner in charge to keep and maintain such books, indices and other registers as may be prescribed. Such books, indices and registers shall contain such particulars as may also be prescribed.

Registration of public trusts.

18. (*1*) It shall be the duty of the trustee of a public trust to which this Act has been applied to make an application for the registration of the public trust.

(*2*) Such application shall be made to the Deputy or Assistant Charity Commissioner of the region or sub-region within the limits of which the trustee has an office for the administration of the trust.

(*3*) Such application shall be in writing, shall be in such form and accompanied by such fee as may be prescribed.

(*4*) Such application shall—

(*a*) in the case of a public trust created before this Act was applied to it, be made, within three months from the date of the application of this Act, and

(*b*) in the case of a public trust created after this Act comes into force, within three months of its creation.

(*5*) Such application shall *inter alia* contain the following particulars :—

(i) the names and addresses of the trustees and the manager,

(ii) the mode of succession to the office of the trustee,

(iii) the list of the moveable and immovable trust property and such descriptions and particulars as may be sufficient for the identification thereof,

(iv) the approximate value of the moveable and immovable property,

(v) the gross average annual income of the trust property estimated on the income of three years immediately preceding the date on which the application is made or of the period which has elapsed since the creation of the trust, whichever period is shorter,

(vi) the amount of the average annual expenditure in connection with such public trust estimated on the expenditure incurred within the period to which the particulars under clause (v) relate,

(vii) the address to which any communication to the trustee or manager in connection with the public trust may be sent,

(viii) such other particulars which may be prescribed :

Provided that the rules may provide that in the case of any or all public trusts it shall not be necessary to give the particulars of the trust property of such value and such kind as may be specified therein.

(*6*) Every application made under sub-section (*1*) shall be signed and verified in the prescribed manner by the trustee or his agent specially authorised by him in this behalf. It shall be accompanied by a copy of an instrument of trust, if such instrument had been executed and is in existence.

Inquiry for registration.

19. On the receipt of an application under section 18, or upon an application made by any person having interest in a public trust or on his own motion, the Deputy or Assistant Charity Commissioner shall make an inquiry in the prescribed manner for the purpose of ascertaining :—

(i) whether the trust is a public trust,

(ii) whether any property is the property of such trust,

(iii) whether the whole or any substantial portion of the subject-matter of the trust is situate within his jurisdiction,

(iv) the names and addresses of the trustees and manager of such trust,

(v) the mode of succession to the office of the trustee of such trust,

(vi) the origin, nature and object of such trust,

(vii) the amount of gross average annual income and expenditure of such trust, and

(viii) any other particulars as may be prescribed under sub-section (5) of section 18.

Findings of Deputy or Assistant Charity Commissioners.

20. On completion of the inquiry provided for under section 19, the Deputy or Assistant Charity Commissioner shall record his findings with the reasons therefor as to the matters mentioned in the said section.

Entries in register.

21. (*1*) The Deputy or Assistant Charity Commissioner shall make entries in the register kept under section 17 in accordance with the findings recorded by him under section 20 or if appeals are made as provided by this Act, in accordance with the final decision of the competent authority provided by this Act.

(*2*) The entries so made shall, subject to the provisions of this Act and subject to any change recorded under the following provisions, be final and conclusive.

Change.

22. (*1*) Where any change occurs in any of the entries recorded in the register kept under section 17, the trustee shall, within 90 days from the date of the occurrence of such change, or where any change is desired in such entries in the interest of the administration of such public trust, report such change or proposed change to the Deputy or Assistant Charity Commissioner in charge of the Public Trusts Registration Office where the register is kept. Such report shall be made in the prescribed form.

(*2*) For the purpose of verifying the correctness of the entries in the register kept under section 17 or ascertaining whether any change has occurred in any of the particulars recorded in the register, the Deputy or Assistant Charity Commissioner may hold an inquiry.

(*3*) If the Deputy or Assistant Charity Commissioner, as the case may be, after receiving a report under sub-section(*1*) and holding an inquiry, if necessary, under sub-section (*2*), or merely after holding an inquiry under the said sub-section (*2*), is satisfied that a change has occurred in any of the entries recorded in the register kept under section 17 in regard to a particular public trust, he shall record a finding with the reasons therefor to that effect. Such finding shall be appealable to the Charity Commissioner. The Deputy or Assistant Charity Commissioner shall amend the entries in the said register in accordance with such finding and if appeals were made against such finding, in accordance with the final decision of the competent authority provided by this Act. The amendments in the entries so made shall, subject to any further amendment on the occurrence of a change, be final and conclusive.

Procedure where trust property is situate in several regions or sub-regions.

23. If any part of the property of any public trust is situate within the limits of more than one region or sub-region, the Deputy or Assistant Charity Commissioner of the region or sub-region within the limits of which the public trust is registered, shall forward a copy of the entries to the Deputy or Assistant Charity Commissioner in charge of the region or sub-region within the limits of which such part of the trust property is situate. The Deputy or Assistant Charity Commissioner in charge of such region or sub-region shall make an entry in such book as may be prescribed for the purpose. A copy of such entry shall also be sent by the Deputy or the Assistant Charity Commissioner, as the case may be, to the Sub-Registrar appointed under the Indian Registration Act, 1908, of the sub-district within the limits of which such property or part thereof is situate.

XVI of 1908.

Stay of inquiry.

24. No Deputy or Assistant Charity Commissioner shall proceed with an inquiry under section 19 or 22 in regard to any public trust which has been already registered in any other region or sub-region.

Inquiry regarding public trust not to be held by more than one Deputy or Assistant Charity Commissioner.

25. (*1*) If an inquiry under section 19 or 22 in regard to any public trust is pending before more than one Charity Commissioner, whether Deputy or Assistant, the Charity Commissioner shall, on the application of any of the persons having interest in such public trust or of any Deputy or Assistant Charity Commissioner before whom such inquiry is pending or on his own motion, determine which of such Deputy or Assistant Charity Commissioners shall proceed with the inquiry in regard to such trust.

(*2*) The determination of the Charity Commissioner under sub-section (*1*) shall be final and conclusive; and upon such determination, no Deputy or Assistant Charity Commissioner other than the Deputy or Assistant Charity Commissioner specified by the Charity Commissioner shall proceed with the inquiry in regard to the public trust under section 19 or 22, as the case may be.

Court to forward copy of decision to Charity Commissioner.

26. Any Court of competent jurisdiction deciding any question relating to any public trust which by or under the provisions of this Act is not expressly or impliedly barred from deciding shall cause copy of such decision to be sent to the Charity Commissioner and the Charity Commissioner shall cause the entries in the register kept under section 17 to be made or amended in regard to such public trust in accordance with such decision. The amendments so made shall not be altered except in cases where such decision has been varied in appeal or revision by a court of competent jurisdiction. Subject to such alterations, the amendments made shall be final and conclusive.

Stamping of scrips.

27. (*1*) Where a public trust has been registered under the provisions of this Act, it shall be the duty of the trustee to stamp or indorse in the prescribed manner on each of the scrips which form part of the property of the public trust the name or description of the trust. The Deputy or the Assistant Charity Commissioner making the inquiry under section 19 shall satisfy himself that each of such scrips has been so stamped or indorsed. If he finds that they are not so stamped or indorsed, he may require them to be so stamped or indorsed.

(*2*) In the case of scrips which may become the property of a public trust after its registration under this Act, it shall be the duty of the trustee to stamp or indorse them in the manner referred to in sub-section (*1*) within 15 days from the date on which such scrips have come into his possession. If before the expiry of the said period of 15 days any of such scrips are to be sold, pledged or otherwise transferred, the trustee shall stamp or indorse them in the manner referred to in sub-section (*1*) before such sale, pledge or transfer is effected.

(*3*) Notwithstanding anything contained in sub-sections (*1*) and (*2*), the Deputy or the Assistant Charity Commissioner may, at any time, in order to satisfy himself that any of the scrips which are the property of a public trust have been stamped or indorsed in the manner referred to in sub-section (*1*), require the trustee to produce for his inspection the scrips which are the property of a public trust and may, if such scrips are found not to have been so stamped or indorsed, require them to be so stamped or indorsed.

Public trusts previously registered under enactments specified in Schedule.

28. (*1*) All public trusts registered under the provisions of any of the enactments specified in the Schedule shall be deemed to have been registered under this Act from the date on which this Act may be applied to them. The Deputy or Assistant Charity Commissioner of the region or sub-region within the limits of which the trust property or the substantial portion of the trust property is situate shall issue notice to the trustee of such trust for the purpose of recording entries relating

to such trust in the register kept under section 17 and shall after hearing the trustee and making such inquiry as he thinks fit record findings with the reasons therefor. Such findings shall be in accordance with the entries in the registers already made under the said enactments subject to such changes as may be necessary or expedient.

(*2*) Any person aggrieved by any of the findings recorded under sub-section (*1*) may appeal to the Charity Commissioner.

(*3*) The provisions of this Chapter shall, so far as may be, apply to the making of entries in the register kept under section 17 and the entries so made shall be final and conclusive.

Public trust created by will.

29. In the case of the public trust which is created by a will, the executor of such will shall within one month from the date on which the probate of the will is granted or within six months from the date of the testator's death make an application for the registration in the manner provided in section 18 and the provisions of this Chapter shall *mutatis mutandis* apply to the registration of such trust.

Notice of particulars of immovable property and scrips entered in register.

30. Any person acquiring any immovable property or scrip belonging to a public trust which has been registered under this Chapter or any part of or any share or interest in such property or scrip of such trust shall be deemed to have notice of the relevant particulars relating to such trust entered in the register.

Bar to hear or decide suits.

31. (*1*) No suit to enforce a right on behalf of a public trust which has not been registered under this Act shall be heard or decided in any Court.

(*2*) The provisions of sub-section (*1*) shall apply to a claim of set off or other proceeding to enforce a right on behalf of such public trust.

CHAPTER V.

Accounts and Audit.

Maintenance of accounts.

32. (*1*) Every trustee of a public trust which has been registered under this Act shall keep regular accounts.

(*2*) Such accounts shall be kept in such form as may be approved by the Charity Commissioner and shall contain such particulars as may be prescribed.

Balancing and auditing of accounts.

33. (*1*) The accounts kept under section 32 shall be balanced each year on the thirty-first day of March or such other day, as may be fixed by the Charity Commissioner.

(*2*) The accounts shall be audited annually in such manner as may be prescribed and by a person who is the holder of certificate granted under section 144 of the Indian Companies Act, 1913, or is a member of an institution or association, the members of which have been declared under that section to be entitled to act as auditors of companies or by such persons as may be authorised in this behalf by the State Government.

VII of 1913.

(*3*) Every auditor acting under sub-section (*2*) shall have access to the accounts and to all books, vouchers, other documents and records in the possession of or under the control of the manager.

(*4*) Notwithstanding anything contained in the preceding sub-sections, the Charity Commissioner may direct a special audit of the accounts of any public trust whenever in his opinion such special audit is necessary. The provisions of sub-sections (*2*) and (*3*) shall, so far as may be applicable, apply to such special audit. The Charity Commissioner may direct the payment of such fee as may be prescribed for such special audit.

Auditor's duty to prepare balance sheet and to report irregularities etc.

34. (*1*) It shall be the duty of every auditor auditing the accounts of a public trust under section 33 to prepare a balance sheet and income and expenditure account and to forward a copy of the same to the Deputy or Assistant Charity Commissioner of the region or sub-region or to the Charity Commissioner, if the Charity Commissioner requires him to do so.

(*2*) The auditor shall in his report specify all cases of irregular, illegal or improper expenditure, or failure or omission to recover moneys or other property belonging to the public trust or of loss or waste of money or other property thereof and state whether such expenditure, failure, omission, loss or waste was caused in consequence of a breach of trust, or misapplication or any other misconduct on the part of the trustees, or any other person.

Investment of public trust money.

35. Where the trust property consists of money and cannot be applied immediately or at any early date to the purposes of the public trust the trustee shall be bound (subject to any direction contained in the instrument of the trust) to invest the money in public securities:

Provided that such money may be invested in the first mortgage of immovable property situate in a Part A State or a Part C State if the property is not leasehold for a term of years and the value of the property exceeds by one-half the mortgage money:

Provided further that the Charity Commissioner may by general or special order permit the trustee of any public trust or classes of such trusts to invest the money in any other manner.

Alienation of immovable property of public trust.

36. Subject to the directions in the instrument of trust—

(*a*) no sale, mortgage, exchange or gift of any immovable property, and

(*b*) no lease for a period exceeding ten years in the case of agricultural land or for a period exceeding three years in the case of non-agricultural land or a building,

belonging to a public trust, shall be valid without the previous sanction of the Charity Commissioner.

CHAPTER VI.

CONTROL.

Power of inspection and supervision.

37. The Charity Commissioner, the Deputy or Assistant Charity Commissioner or any officer authorised by the State Government by a general or special order shall have power—

(*a*) to enter on and inspect or cause to be entered on and inspected any property belonging to a public trust;

(*b*) to call for or inspect any extract from any proceedings of the trustees of any public trust and any book or account in the possession of or under the control of the trustees;

(*c*) to call for any return, statement, account or report which he may think fit from the trustees or any person connected with a public trust;

Provided that in entering upon any property belonging to the public trust the officers making the entry shall give reasonable notice to the trustee and shall have due regard to the religious practices or usages of the trust.

Explanation on report of auditor.

38. On receipt of a report of the auditor under section 34 the Deputy or Assistant Charity Commissioner to whom the report is submitted shall require the trustee or any other person concerned to submit an explanation thereon within such period as he thinks fit.

Report to Charity Commissioner.

39. If on the consideration of the report of the auditor, the accounts and explanation, if any, furnished by the trustees or any other person, the Deputy or Assistant Charity Commissioner is, after holding an inquiry in the prescribed manner, satisfied that the trustees or any other person has been guilty of gross negligence, a breach of trust, misapplication or misconduct which has resulted in the loss to the public trust, he shall report the matter to the Charity Commissioner.

Decision of Charity Commissioner on report under section 39.

40. The Charity Commissioner shall, after considering the report of the Deputy or Assistant Charity Commissioner, giving an opportunity to the person concerned and holding such inquiry as he thinks fit, determine—

(*a*) the amount of loss caused to a public trust;

(*b*) whether such loss was due to any breach of trust, misapplication or misconduct on the part of any person;

(*c*) whether any of the trustees, or any other person was responsible for such loss;

(*d*) the amount which any of the trustees or any other person is liable to pay to the public trust for such loss.

Order of surcharge.

41. (*1*) If the Charity Commissioner decides that any person is liable to pay to the public trust any amount for the loss caused to the trust, the Charity Commissioner may direct that the amount shall be surcharged on the person.

(*2*) Subject to the provisions of section 72, the order of the Charity Commissioner under sub-section (*1*) shall be final and conclusive.

CHAPTER VII.

Other Functions and Powers of Charity Commissioner.

Charity Commissioner to be corporation sole.

42. The Charity Commissioner shall be a corporation sole and shall have perpetual succession and a common seal and may sue and be sued in his corporate name.

Charity Commissioner to be Treasurer of Charitable Endowments under Act VI of 1890.

43. Notwithstanding anything contained in the Charitable Endowments Act, 1890, the Charity Commissioner shall be deemed to be and to have always been the Treasurer of Charitable Endowments for the State of Bombay appointed under the provisions of the said Act, and the property vesting in the said Treasurer before the date on which this Act comes into force shall be deemed to vest in the Charity Commissioner as the Treasurer of Charitable Endowments; and the provisions of the said Act shall apply to the Charity Commissioner, as the Treasurer of Charitable Endowments appointed under the said Act.

VI of 1890.

Charity Commissioner can act as trustee of public trusts.

44. (*1*) Subject to the provisions of this Act or the rules made thereunder the Charity Commissioner may be appointed to act as a trustee of a public trust by a Court of competent jurisdiction or by the author of the trust.

(*2*) Save as herein provided, the Charity Commissioner acting as a trustee of a public trust shall have the same powers, duties and liabilities, and be entitled to the same rights and privileges as any other trustee of a public trust.

(*3*) The Charity Commissioner may decline, either absolutely or except on such conditions as he may impose, to accept any trust.

(*4*) The Charity Commissioner shall be the sole trustee and it shall not be lawful to appoint him as a trustee along with other persons.

Charity Commissioner may with consent be appointed trustee of settlement by grantor.

45. (*1*) Any person intending to create a public trust may by the instrument creating the trust and with the consent of the Charity Commissioner appoint him by that name or any other description to be the trustee of such trust:

Provided that the consent of the Charity Commissioner shall be recited in the said instrument and that such instrument shall be executed by the Charity Commissioner or any officer duly authorised by him in that behalf.

(*2*) Upon such appointment the trust property shall vest in the Charity Commissioner and shall be held by him upon the terms declared in such instrument.

Appointment of Charity Commissioner as trustee under will.

46. Where the Charity Commissioner by that name or any other sufficient description has been appointed a trustee of any public trust under any will, the executor of the will of the testator or the administrator of his estate shall after obtaining probate or letters of administration, notify in the prescribed manner, the contents of such will to the Charity Commissioner and if the Charity Commissioner consents to accept the trust, then upon the execution by such executor or administrator of an instrument in writing transferring the property subject to the trust to the Charity Commissioner, such property shall vest in the Charity Commissioner and shall be held by him upon the trust expressed in the will:

Provided that the consent of the Charity Commissioner shall be recited in the instrument and that such instrument shall be executed by the Charity Commissioner or any officer duly authorised by him in that behalf.

Power of Court to appoint new trustee or trustees as the case may be.

47. (*1*) Any person interested in a public trust or the Charity Commissioner may apply to the Court for the appointment of a new trustee, when a trustee of such trust—

(*a*) disclaims or dies;

(*b*) is for a continuous period of six months absent from India without the leave of the Charity Commissioner or Deputy or Assistant Charity Commissioner or the Officer authorised by the State Government in this behalf;

(*c*) leaves India for the purpose of residing abroad;

(*d*) is declared an insolvent;

(*e*) desires to be discharged from the trust;

(*f*) refuses to act as a trustee;

(*g*) becomes in the opinion of the Court unfit or physically incapable to a in the trust or accepts a position which is inconsistent with the trust; or

(*h*) in any of the cases mentioned in Chapter III is not available to administer the trust.

(*2*) No such application shall be entertained,—

(*a*) unless the trustee who on account of any of the reasons mentioned in clauses (*a*) to (*h*) of sub-section (*1*) is not fit or available to administer the trust is the sole trustee or unless by the vacation of office by one or more trustees on account of any of the said reasons the minimum number of trustees required by the instrument, scheme, order or decree of the Court or usage or custom of the trust for the administration of the trust is reduced;

(*b*) (*i*) until the expiration of a period of three months from the date on which the trustee is not so fit or available to administer the trust; and

(*ii*) if a new trustee has been appointed in the said office during the said period in accordance with the instrument, scheme, order or decree of the Court, or custom or usage of the trust.

(*3*) The Court after making an inquiry may appoint the Charity Commissioner or any other person as the trustee to fill up the vacancy.

(*4*) In appointing the trustee under sub-section (*3*) the Court shall have regard—

(*a*) to the wishes of the author of the trust;

(*b*) to the wishes of the person, if any, empowered to appoint a new trustee;

(*c*) to the question whether the appointment will promote or impede the execution of the trust;

(*d*) to the interest of the public or the section of the public who have interest in the trust; and

(*e*) to the custom and usage of the trust.

(*5*) Where the Charity Commissioner is appointed a trustee, he shall be the sole trustee.

(*6*) The decision of the Court under sub-section (*3*) shall be deemed to be the decree of the Court and an appeal shall lie therefrom to the High Court.

Levy of administrative charges.

48. (*1*) When the Charity Commissioner is appointed a trustee of any public trust, there shall be levied such administrative charges whether by way of percentage or otherwise, as the State Government may prescribe.

(*2*) The charges so levied may be at different rates for different properties or classes of properties or for different duties.

Transfer of property by Charity Commissioner.

49. (*1*) Nothing in this Act shall be deemed to prevent the transfer, by the Charity Commissioner, of any property vested in him as a trustee, to—

(*a*) the original trustee (if any),

(*b*) any other lawfully appointed trustee, or

(*c*) any other person, if the court so directs.

(*2*) Upon such transfer, such property shall vest in such trustee and shall be held by him upon the same terms as those upon which it was held prior to the transfer and the Charity Commissioner shall be exempt from all liability as trustee of such property except in respect of acts done before such transfer:

Provided that in the case of any transfer under this section, the Charity Commissioner shall be entitled to retain out of the property any fees and administrative charges leviable in accordance with the provisions of this Act.

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Suits relating to public trusts.

50. In any case—

(*i*) where it is alleged that there is a breach of a public trust,

(*ii*) where a declaration is necessary that a particular property is a property belonging to a public trust or where a direction is required to recover the possession of such property from any person including a person holding adversely to the public trust, or

(*iii*) where the direction of the court is deemed necessary for the administration of any public trust,

the Charity Commissioner or two or more persons having an interest in the trust and having obtained the consent in writing of the Charity Commissioner as provided in section 51 may institute a suit whether contentious or not in the court within the local limits of whose jurisdiction the whole or part of the subject-matter of the trust is situate, to obtain a decree for any of the following reliefs :—

(*a*) an order for the recovery of the possession of such property,

(*b*) the removal of any trustee or manager,

(*c*) the appointment of a new trustee or manager,

(*d*) a direction for taking accounts and making certain inquiries,

(*e*) a declaration as to what proportion of the trust property or of the interest therein shall be allocated to any particular object of the trust,

(*f*) a direction authorising the whole or any part of the trust property to be let, sold, mortgaged or exchanged,

(*g*) the settlement of a scheme or variations or alterations in a scheme already settled, or

(*h*) granting such further or other relief as the nature of the case may require :

Provided that no suit claiming any of the reliefs specified in this section shall be instituted in respect of any public trust except in conformity with the provisions thereof.

Consent of Charity Commissioner for institution of suit.

51. (*1*) If the persons having an interest in any public trust intend to file a suit of the nature specified in section 50, they shall apply to the Charity Commissioner in writing for his consent. The Charity Commissioner, after hearing the parties and after making such inquiry as he thinks fit, may within a period of six months from the date on which the application is made, grant or refuse his consent to the institution of such suit. The order of the Charity Commissioner refusing his consent shall be in writing and shall state the reasons for the refusal.

(*2*) If the Charity Commissioner refuses his consent to the institution of the suit under sub-section (*1*) the persons applying for such consent may file an appeal to the Bombay Revenue Tribunal constituted under the Bombay Revenue Tribunal Act, 1939, in the manner provided by this Act. Bom. XII of 1939.

(*3*) In every suit filed by persons having interest in any trust under section 50, the Charity Commissioner shall be a necessary party.

(*4*) Subject to the decision of the Bombay Revenue Tribunal in appeal under section 71, the decision of the Charity Commissioner under sub-section (*1*) shall be final and conclusive.

V of 1908. **52.** Notwithstanding anything contained in the Code of Civil Procedure, 1908, the provisions of sections 92 and 93 of the said Code shall not apply to the public trusts. Non-application of sections 92 and 93 of Civil Procedure Code to public trusts.

53. (*1*) Where under any will a bequest has been made in favour of a public trust or where such bequest itself creates a public trust, it shall be the duty of the executor under the will to forward a copy thereof to the Deputy or Assistant Charity Commissioner for the region or sub-region where such will may have been, or is required to be, registered. Bequest under will for benefit of public trust.

(*2*) No probate of any such will or letters of administration with such will annexed shall be granted by any Court whatsoever unless it is satisfied that a copy of such will has been forwarded to the Deputy or Assistant Charity Commissioner as provided by sub-section (*1*).

54. (*1*) Where according to the custom or usage of any business or trade or the agreement between the parties relating to any transaction any amount is charged to any party to the said transaction or collected under whatever name, as being intended to be used for a charitable or religious purpose the amount so charged or collected shall vest in the person charging or collecting the same as a trustee. Dharmada.

(*2*) Any person charging or collecting such sums shall within three months from the expiration of the year for which his accounts are ordinarily kept submit an account in such form as may be prescribed to the Deputy or Assistant Charity Commissioner.

(*3*) The Deputy or Assistant Charity Commissioner shall have power to make such inquiry as he thinks fit to verify the correctness of the account submitted and may pass order for the disposal of the amount in the manner prescribed.

55. (*1*) If at any time the Charity Commissioner is of opinion that— Cypres.

(*a*) the original object for which the public trust was created has failed,

(*b*) the income or any surplus balance of any public trust has not been utilized or is not likely to be utilized,

(*c*) it is not in public interest expedient, practicable, desirable, necessary or proper to carry out wholly or partially the original intention of the author of the public trust or the object for which the public trust was created and that the property or the income of the public trust or any portion thereof should be applied to any other charitable or religious object,

(*d*) in any of the cases mentioned in sections 10 to 13 or in regard to the appropriation of the dharmada sums held in trust under section 54 the directions of the court are necessary,

the Charity Commissioner shall give notice in writing to the trustees to apply to the court within the time prescribed for directions.

(*2*) If the trustees fail to make the application as required under sub-section (*1*) or if the Charity Commissioner himself is a trustee or if there is no trustee of the public trust, the Charity Commissioner shall make an application to the court.

Court's power to hear application.

56. (*1*) On such application being made, the court after hearing the parties and making an inquiry shall decide the matter and shall give directions. In giving the directions, the court shall, so far as may be expedient, practicable, desirable or necessary in public interest, give effect to the original intention of the author of the public trust or the object for which the public trust was created. If the Court is of opinion that the carrying out of such intention or object is not wholly or partially expedient, practicable, desirable or necessary in public interest, the court may direct the property or income of the public trust or any portion thereof to be applied *cypres* to any other charitable or religious object. In doing so, it shall be lawful for the court to alter any scheme already settled or to vary the terms of any decree or order already passed in respect of the public trust or the conditions contained in the instrument of the public trust.

(*2*) Any decision or order passed by the court under sub-section (*1*) shall be deemed to be a decree of such court and an appeal shall lie therefrom to the High Court.

CHAPTER VIII.

Public Trusts Administration Fund.

Public Trusts Administration Fund.

57. (*1*) There shall be established a fund to be called the Public Trusts Administration Fund. The Fund shall vest in the Charity Commissioner.

(*2*) The following sums shall be credited to the said Fund, namely :—

(*a*) fees and administrative charges leviable under sections 18 and 48 ;

(*b*) contributions made under section 58 ;

(*c*) the amount from the funds or the portion thereof credited under section 61 ;

(*d*) any sum received from a private person ;

(*e*) any sum allotted by the State Government or any local authority ; and

(*f*) any other sum which may be directed to be credited by or under the provisions of this Act.

Contribution by public trusts to Public Trusts Administration Fund.

58. Every public trust shall pay to the Public Trusts Administration Fund annually such contribution on such date and in such manner as may be prescribed :

Provided that the contribution prescribed under this section shall be fixed at the rates in proportion to the gross annual income of the public trust.

Penalties as recovery of contribution.

59. (*1*) If the trustee of a public trust (other than the Charity Commissioner) fails to pay the contribution under section 58, he shall be liable to penalties provided in section 66.

(*2*) The Charity Commissioner may also make an order directing the bank in which or any person with whom any moneys belonging to the public trust are deposited to pay the contribution from such moneys as may be standing to the credit of the public trust or may be in the hands of such person or may from time to time be recovered from or on behalf of the public trust by way of deposit by such bank or person and such bank or person shall be bound to obey such order. Every payment made pursuant to such order shall be a sufficient discharge to such bank or person from all liability to the public trust in respect of any sum or sums so paid by it or him out of the moneys belonging to the public trust so deposited with the bank or person.

(*3*) Any bank or person who has been ordered under sub-section (*2*) to make the payment may appeal to the State Government and the State Government may, after making such inquiry as it thinks fit, confirm, modify or cancel such order.

Application of Public Trusts Administration Fund.

60. (*1*) The Public Trusts Administration Fund shall, subject to the provisions of this Act and subject to the general or special order of the State Government, be applicable to the payment of charges for expenses incidental to the regulation of public trusts and generally for carrying into effect the provisions of this Act.

(*2*) The custody and investment of the moneys to be credited to the Public Trusts Administration Fund and the disbursement and payment therefrom shall be regulated and made in the prescribed manner.

State Government to direct crediting of funds constituted under any Act in Schedule to Public Trusts Administration Fund constituted under this Chapter.

61. On the application of this Act to any public trust or class of public trusts which may have been registered under any of the Acts specified in the Schedule, the State Government may direct that the amount of any fund for the administration of public trusts constituted under the said Act for the region or sub-region in which such public trust or class of public trusts was registered or any portion thereof shall be credited to the Public Trusts Administration Fund constituted under this Chapter.

CHAPTER IX.

ASSESSORS.

Lists of Assessors.

62. (*1*) On such date as may be prescribed, the Deputy or Assistant Charity Commissioner shall prepare lists of persons liable to serve as assessors.

(*2*) Every person between the ages of 25 and 65 shall, except as may be prescribed by rules, be liable and serve as an assessor under this Act.

(*3*) In the preparation of the lists, regard shall be had to the property, character, education, and religion of persons whose names are entered therein.

(*4*) The lists so prepared shall be submitted to the Charity Commissioner and when approved by him shall be published in the *Official Gazette*.

(*5*) The lists published under sub-section (*4*) shall be in operation for a period of three years :

Provided that the Charity Commissioner may before the expiry of the said period direct any additions or alterations to be made therein.

(*6*) The lists published under sub-section (*4*) shall, notwithstanding anything contained in sub-section (*5*), be deemed to be valid and in operation for a further period of one year or until new lists are prepared in substitution thereof, whichever period expires first.

Person summoned to attend at the time and place specified.

63. Every person summoned to serve as an assessor by the Deputy or Assistant Charity Commissioner shall attend at the time and place when and where he is so summoned to attend, unless he is prevented from such attendance by a reasonable excuse.

Cases in which assessors shall be summoned.

64. In the following proceedings assessors shall be summoned to assist and advise the Charity Commissioner, Deputy or Assistant Charity Commissioner, as the case may be, namely :—

(*a*) an inquiry for the registration of a public trust under section 19 or an inquiry regarding a change in any of the particulars relating thereto under section 22 ;

(*b*) an inquiry regarding any of the public trusts registered under any of the Acts specified in the Schedule under section 28 ;

(*c*) an inquiry regarding the loss caused to a public trust in consequence of the act or conduct of a trustee or any other person under section 40 ;

(*d*) any other inquiry in which by rules or a general or special order made by the State Government in this behalf, the assessors are required to assist and advise the Charity Commissioner, the Deputy or Assistant Charity Commissioner or any other officer appointed under this Act.

Number of assessors to be called.

65. (*1*) The Deputy or Assistant Charity Commissioner shall choose such number of assessors not less than three and not more than five as he deems fit to aid and assist him. In any inquiry relating to a public trust which is for the benefit of the members belonging to a particular religious denomination, the assessors chosen shall, as far as may be practicable, belong to the said religious denomination.

(*2*) At the conclusion of the inquiry he shall record their opinion in writing and require them to sign it. The opinion so recorded shall form part of the proceedings and due consideration shall be given to it in passing an order or arriving at a decision or making a report in the inquiry.

(*3*) If in the course of any inquiry at any time before its conclusion, any assessor is from any sufficient cause, prevented from attending throughout the inquiry or absents himself and it is not practicable to enforce the attendance, the inquiry may be proceeded with the aid of the other assessor or assessors.

(*4*) If all the assessors are prevented from attending or absent themselves, without sufficient cause, the inquiry shall be proceeded with the aid of fresh assessors :

Provided that if the Deputy or Assistant Charity Commissioner holding the inquiry is satisfied that for sufficient and adequate reasons the inquiry need not be delayed, he shall complete the inquiry and shall report the matter to the Charity Commissioner.

(*5*) The assessors shall be entitled to such allowances as may be prescribed.

CHAPTER X.

Offences and Penalties.

Penalty.

66. Whoever contravenes any provision of any of the sections mentioned in the first column of the following table shall, on conviction, for each such offence, be punished with fine which may extend to the amount mentioned in that behalf in the third column of the said table.

Explanation.—The entries in the second column of the said table headed "Subject" are not intended as the definitions of offences described in the sections mentioned in the first column or even as abstracts of those sections, but are inserted merely as references to the subject of the sections, the numbers of which are given in the first column :

Table.

Section.	Subject.	Fine which may be imposed.
1	2	3
Section 18	... Duty of a trustee to make an application for the registration of a public trust within the time provided for.	Rs. 1,000.
Section 22	... Failure to report a change ...	Rs. 1,000.
Section 27	... Duty of the trustee to stamp or indorse scrips.	Rs. 1,000.
Section 29	... Duty of an executor to apply for the registration of a public trust within the time provided for.	Rs. 1,000.
Section 32	... Duty to keep regular accounts ...	Rs. 1,000.
Section 35	... Failure or omission to invest money in public securities.	Rs. 1,000.
Section 59	... Failure to pay contribution under section 58 by a trustee (other than the Charity Commissioner).	Rs. 1,000.
Section 68	... Requiring an assessor to attend ...	Rs. 500.

Other offences.

67. Whoever contravenes any of the provisions of this Act or the rules for which no specific penalty has been provided by this Act, shall, on conviction, be punished with fine which may extend to Rs. 500.

CHAPTER XI.

Functions of Charity Commissioners, Procedure, Jurisdiction and Appeals.

Duties, functions and powers of Deputy or Assistant Charity Commissioner.

68. For the purposes of this Act, the following shall be the duties and functions to be performed and powers to be exercised by the Deputy or Assistant Charity Commissioner for the region or sub-region for which he is appointed, namely :—

(*a*) to keep and maintain such books, entries and other documents as may be prescribed under section 17 ;

(*b*) to hold an inquiry under section 19 or 22 for any of the purposes mentioned in the said section ;

(*c*) to record entries in the register kept under section 17 and to make amendments in the said entries under section 22 ;

(*d*) to enter on and inspect any trust property, to call for and inspect any proceedings of a trustee and to call for any return, statement, account or report from trustees or any person connected with a public trust under section 37 ;

(*e*) to permit inspection of any statement, notice, intimation, account, audit note or any other document ;

(*f*) to prepare a list of assessors under section 62 and to choose and summon them under sections 63 and 65 for the purpose of inquiries under this Act ;

(*g*) to exercise such other powers and to perform such other duties and functions as may be prescribed.

Duties, functions and powers of Charity Commissioner.

69. For the purposes of this Act, the following shall be the duties to be performed and powers to be exercised by the Charity Commissioner, namely :—

(*a*) the general superintendence of the administration and carrying out the purposes of this Act under section 3 ;

(*b*) power to entertain and dispose of appeals from the findings of a Deputy or Assistant Charity Commissioner under section 20, 22 or 28 ;

(*c*) power to determine which of the Deputy or Assistant Charity Commissioners shall proceed with an inquiry relating to the registration of any public trust under section 25 ;

(*d*) power to direct a special audit of the accounts of a public trust under section 33 ;

(*e*) power to require an auditor to forward to him a copy of a balance sheet and income and expenditure account under section 34 ;

(*f*) power to permit a trustee to invest money of a public trust in any manner other than in public securities under section 35 ;

(*g*) power to sanction a sale, mortgage, exchange, gift or lease of immovable property belonging to a public trust under section 36 ;

(*h*) power to enter on and inspect any trust property, to call for and inspect any proceedings of a trustee, and to call for any return, statement, account or report from trustees or any person connected with a public trust under section 37 ;

(*i*) power to hold an inquiry in regard to any loss caused to a public trust under section 40, and to order a surcharge under section 41 ;

(*j*) power to act as the Treasurer of Charitable Endowments under the Charitable Endowments Act, 1890, under section 43 ; VI of 1890.

(*k*) power to act as a trustee of a public trust ;

(*l*) power to file a suit under section 50 ;

(*m*) power to give or refuse consent to the institution of a suit under section 51 ;

(*n*) power to give notice to trustees for the *cypres* application of the trust money and to make an application to the court under section 55 ;

(*o*) power to publish the lists of assessors under section 62 ;

(*p*) to exercise such other powers and perform such other duties and functions as may be prescribed.

Appeals from findings of Deputy or Assistant Charity Commissioner.

70. (*1*) An appeal against the finding of the Deputy or Assistant Charity Commissioner may be filed to the Charity Commissioner in the following cases :—

(*a*) the finding under section 20 ;

(*b*) the finding under section 22 ;

(*c*) the finding under section 28 ;

(*d*) the order under sub-section (*3*) of section 54.

(*2*) No appeal shall be maintainable after the expiration of sixty days from the recording of the finding or the passing of the order, as the case may be.

(*3*) The Charity Commissioner may, after hearing the appellant or any person appearing on his behalf, for reasons to be recorded in writing either annul, reverse, modify or confirm the finding or the order appealed against or he may direct the Deputy or Assistant Charity Commissioner to make further inquiry or to take such additional evidence as he may think necessary or he may himself take such additional evidence.

Appeal to Bombay Revenue Tribunal.

71. (*1*) The appeal to the Bombay Revenue Tribunal under sub-section (*2*) of section 51 against the decision of the Charity Commissioner refusing consent to the institution of the suit shall be filed within sixty days from the date of such decision in such form and shall be accompanied by such fee as may be prescribed.

(*2*) The Bombay Revenue Tribunal after making such inquiry as it thinks fit may confirm, revoke or modify the decision of the Charity Commissioner.

(*3*) The decision of the Bombay Revenue Tribunal shall be final and conclusive.

Application from Charity Commissioner's decision under section 40, 41 or 70, etc.

72. (*1*) Any person aggrieved by the decision of the Charity Commissioner under section 40, 41 or 70 or on the questions whether a trust is a public trust or whether any property is the property of such trust under Chapter IV may, within sixty days from the date of the decision, apply to the court to set aside the said decision.

(*2*) The court after taking such evidence as it thinks necessary may confirm, revoke or modify the decision or remit the amount of the surcharge and make such orders as to costs as it thinks proper in the circumstances.

(*3*) Pending the disposal of an application under sub-section (*2*), all proceedings for surcharge shall be stayed if the person aggrieved makes out a *prima facie* case for a stay order.

(*4*) An appeal shall lie to the High Court against the decision of the court under sub-section (*2*) as if such decision was a decree from which an appeal ordinarily lies.

Officers holding inquiries to have powers of civil court.

73. In holding inquiries under this Act, the officer holding the same shall have the same powers as are vested in courts in respect of the following matters under the Code of Civil Procedure, 1908, in trying a suit—

V of 1908.

(*a*) proof of facts by affidavits,

(*b*) summoning and enforcing the attendance of any person and examining him on oath,

(*c*) compelling the production of documents,

(*d*) issuing of commissions.

Inquiries to be judicial inquiries.

74. All inquiries and appeals under this Act shall be deemed to be judicial proceedings within the meaning of sections 193, 219 and 228 of the Indian Penal Code. XLV of 1860.

Limitation.

75. In computing the period of appeal under this Chapter, the provisions of sections 4, 5, 12 and 14 of the Indian Limitation Act, 1908, shall apply to the filing of such appeals. IX of 1908.

Civil Procedure Code to apply to proceedings under this Act.

76. Save in so far as they may be inconsistent with anything contained in this Act, the provisions of the Code of Civil Procedure, 1908, shall apply to all proceedings before the court under this Act. V of 1908.

Recovery of sums due under section 18, 41 or 48 or rules.

77. All sums payable under section 18, 41 or 48 or under any rule, if not paid, shall notwithstanding anything contained in any law, be recoverable as an arrear of land revenue.

CHAPTER XII.

MISCELLANEOUS.

Charity Commissioner and other officers and assessors to be public servants.

78. The Charity Commissioner, Deputy and Assistant Charity Commissioners, Inspectors and other subordinate officers and Assessors appointed under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code. XLV of 1860.

Decision of property as public trust property.

79. (*1*) Any question, whether or not a trust is a public trust or particular property is the property of such trust, shall be decided by the Deputy or Assistant Charity Commissioner or the Charity Commissioner in appeal as provided by this Act.

(*2*) The decision of the Deputy or Assistant Charity Commissioner or the Charity Commissioner in appeal, as the case may be, shall, unless set aside by the decision of the court in appeal or of the High Court in further appeal, be final and conclusive.

Bar of jurisdiction.

80. Save as expressly provided in this Act, no civil court shall have jurisdiction to decide or deal with any question which is by or under this Act to be decided or dealt with by any officer or authority under this Act, or in respect of which the decision or order of such officer or authority has been made final and conclusive.

Indemnity from suits and proceedings.

81. (*1*) No suit, prosecution or other proceeding shall be instituted against the State Government or any officer or authority in respect of anything in good faith done or purporting to be done under this Act.

(*2*) Subject to the provisions of sub-section (*1*), no suit under section 50 shall, without the previous sanction of the State Government, be instituted against the Charity Commissioner in respect of a public trust of which he has been authorised to act as a trustee.

82. No court inferior to that of a Presidency Magistrate or a Magistrate of the First Class shall try an offence punishable under this Act. Trial of offences under this Act.

83. No prosecution for an offence punishable under this Act, shall be instituted without the previous sanction of the Charity Commissioner. Previous sanction of Charity Commissioner necessary for prosecution.

84. (*1*) The State Government may make rules for the purpose of carrying into effect the provisions of this Act. Rules.

(*2*) In particular and without prejudice to the generality of the foregoing provision, such rules may be made for all or any of the following matters, namely :—

(*a*) the manner of publishing the notification under sub-section (*4*) of section 1;

(*b*) the powers, duties and functions of the officers other than the Charity Commissioner, Deputy and Assistant Charity Commissioners appointed under this Act in addition to those provided for in this Act;

(*c*) the powers, duties and functions of assessors in addition to those provided for in this Act;

(*d*) the limits of regions and sub-regions to be prescribed under sub-section (*1*) of section 14;

(*e*) the books, indices and registers to be kept and maintained in a Public Trusts Registration Office, and the particulars to be entered in such books, indices and registers under section 17;

(*f*) the form in which an application for the registration of a public trust is to be made and the fee to be paid for the same, the other particulars to be entered therein and the manner in which an application for such registration is to be signed and verified and the value and kind of trust property in respect of which it shall not be necessary to give particulars under section 18;

(*g*) the manner in which an inquiry has to be made by the Deputy or Assistant Charity Commissioner under sections 19 and 39 ;

(*h*) the form in which the Deputy or Assistant Charity Commissioner has to make a report regarding the change under section 22;

(*i*) the book in which the Deputy or Assistant Charity Commissioner shall make an entry under section 23;

(*j*) the manner of stamping or indorsing on the scrips under sub-section (*1*) of section 27 ;

(*k*) the particulars to be entered in the accounts under sub-section (*2*) of section 32 and the fee to be paid for special audit under section 33 ;

(*l*) the manner of notifying contents of the will under section 46;

(*m*) the administrative charges to be levied under sub-section (*1*) of section 48;

(*n*) the form of account to be submitted under sub-section (*2*), and the manner of passing order under sub-section (*3*), of section 54;

(*o*) the time within which trustees may apply to the court for directions under sub-section (*1*) of section 55 ;

(*p*) the date on which and the manner in which and the amount of contribution which every public trust shall pay annually under section 58 and the manner in which the custody and investment of, and the disbursement and payment from, such fund shall be made under section 60;

(*q*) the date on which the Deputy or Assistant Charity Commissioner shall prepare a list of assessors under sub-section (*1*), and the persons who may be exempted to serve as assessors under sub-section (*2*), of section 62;

(*r*) the allowances to be paid to assessors under sub-section (*5*) of section 65;

(*s*) the other powers, duties and functions to be exercised and performed by a Deputy or Assistant Charity Commissioner under section 68;

(*t*) the other powers, duties and functions to be exercised and performed by the Charity Commissioner under section 69;

(*u*) the form of appeal and the fee to be paid for filing such appeal under section 71;

(*v*) the custody and investment of the money to be credited to the Public Trusts Administration Fund and the disbursement and payment therefrom;

(*w*) any other matter which is to be or may be prescribed under this Act.

(*3*) All rules made under this section shall be subject to the condition of previous publication.

Repeal. **85.** (*1*) The Religious Endowments Act, 1863, is hereby repealed. XX of 1863.

(*2*) On the application of the provisions of this Act to any public trust or class of public trusts, under sub-section (*4*) of section 1, the provisions of the Act specified in the Schedule which apply to such trust or class of trusts shall cease to apply to such trust or class of trusts.

(*3*) Such repeal or cessation shall not in any way affect—

(*a*) any right, title, interest, obligation or liability already acquired, accrued or incurred before the date of the application of this Act,

(*b*) any legal proceedings or remedy in respect of such right, title, interest, obligation or liability, or

(*c*) anything duly done or suffered before the date of the application of this Act.

SCHEDULE.

(*See* sections 28, 61, 64 and 85.)

1. The Charitable and Religious Trusts Act, 1920. XIV of 1920.

2. The Mussalman Wakf Act, 1923, as amended by Bombay Act XVIII of 1935. XLII of 1923.

3. The Bombay Public Trusts Registration Act, 1935. Bom. XXV of 1935.

4. The Parsi Public Trusts Registration Act, 1936. Bom. XXIII of 1936.

5. The Baroda Public Institutions Act (Baroda Act No. VI of Samvat 1961).

6. The Religious Endowments Act, 1863 as applied to the Jamkhandi State in 1890. XX of 1863.

7. The Deosthan Rules, 1912 of the Jamkhandi State as amended by Jamkhandi Act No. I of 1948.

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